

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVN. APPLICATION NO. 251 OF 2003

State of Maharashtra ... Applicant

versus

Bhagwandas Mathuralal Mundada ... Respondent

...

Mr. K.V. Saste, A.P.P., for the Applicant.

Mr. Prakash Naik, for the Respondent.

...

CORAM : A.M.KHANWILKAR, J.

11th January 2005

P.C.:

1. This is yet another application for cancellation of bail filed by the State of Maharashtra. During my recent assignment, I have come across several applications of this kind. All these applications were filed more than one year back and as the order of bail was questioned on merits, at such distance of time, it was not possible to interfere, for which reason those applications have been rejected. Today, by a

separate order, I have rejected Criminal Application No. 1838 of 2002 for this reason. Amongst others, following applications have been recently rejected by me on this count.

- (1) Criminal Application No.538/1997,
decided on 14th December 2004.
- (2) Criminal Application No.1837/1997,
decided on 15th December 2004.
- (3) Criminal Application No.1838/1997,
decided on 15th December 2004.
- (4) Criminal Application No.1890/1997
decided on 10th September 2004.
- (5) Criminal Application No.3687/1999,
decided on 15th December 2004.
- (6) Criminal Application No.3565/1998,
decided on 13th December 2004.
- (7) Criminal Application No.867/2000,
decided on 15th December 2004.
- (8) Criminal Application No.2662/2000,
decided on 15th December 2004.
- (9) Criminal Application No.1413/2002,
decided on 15th December 2004.
- (10)Criminal Application No.4425/2002,
decided on 15th December 2004.
- (11)Criminal Application No.3821/2003,

decided on 17th December 2004.

(12) Criminal Application No.4996/2003,

decided on 14th December 2004.

(The numbers indicated above are only illustrative and not an exhaustive list.)

2. If the State was serious enough about cancellation of bail in the above cases, then it was expected that the Office of the Public Prosecutor, soon after filing of the respective applications, had taken steps for listing of those applications before the Court for decision. That has not been done for inexplicable reasons. It only means that such applications were filed only to do an empty formality. Perhaps, it must have been done to impress upon the complainant that the State was seriously pursuing the criminal action. There may be other considerations best known to the concerned. Suffice it to observe that after filing of those applications, no effective steps were taken in all those cases. This has resulted in perpetrating injustice in the respective cases. For, in a given case, the Public Prosecutor of the lower Court must have strongly recommended

for filing of such application, being more than convinced that bail has been wrongly granted in a particular case. Acting upon such recommendation, the State indeed filed applications for cancellation of bail before this Court, but the said action has not been taken to its logical end. This cannot be countenanced. Such inaction not only results in perpetrating injustice in that particular case, but also adds to the avoidable cost to the public exchequer and more so, waste of Court's time in processing such applications, to be eventually terminated as having become infructuous.

3. I am constrained to pass this speaking order only to impress upon the appropriate authorities that such lapses should be viewed seriously at least in posterity. The authorities will be well-advised to issue necessary instructions to all concerned that when application for cancellation of bail is filed, all necessary steps should be taken for immediate listing of such application before the Court for decision thereon. The responsibility is not only of the Office of the Public Prosecutor and the in

charge Public Prosecutor, but also of the investigating officer in charge of that case. In case, any inaction or lapse is noticed by the authorities, the same should be dealt with sternly. This, however, does not mean that the authorities should overlook the lapses of the concerned in the applications already disposed of on the ground of having been placed for orders after distance of time.

4. Reverting to the present application, the same has been filed as back as in June 2003 for cancelling the bail order passed by the lower Court on 21st March 2003. In the first place, almost three months were allowed to roll by from the date of the order till the institution of the application in this Court. Besides, after institution of the application, no steps were taken till the matter was placed before the Court by the Registry on its own for orders, for non-removal of office objection, on 4th October 2004, when conditional order was passed. After that order, office objection has been removed in time, but once again, no steps were taken till the Office, once again on its own, placed the

matter for hearing today, i.e., 11th January 2005. At this distance of time, I see no justification to entertain this application. The same is rejected on this count alone. Ordered accordingly.

5. Copy of this order be forwarded to the Secretary, Law and Judiciary Department, Government of Maharashtra, as well as the Principal Secretary, Home Department, Government of Maharashtra, to take appropriate action in the matter.

(A.M.KHANWILKAR, J.)